

**MINUTES OF THE SPECIAL MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
MAY 21, 2024**

The City Council of the City of Mountain Brook, Alabama met in person at 5:00 p.m. on the 21st day of May, 2024. Council President Virginia Smith called the meeting to order, and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Lloyd C. Shelton
Gerald A. Garner
Graham L. Smith
Stewart Welch III, Mayor

Absent: None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and Acting City Clerk Steven Boone.

The Council President Virginia Smith stated that a quorum was present and that the meeting was open for the transaction of business

1. PUBLIC HEARING TO CONSIDER AN ORDINANCE REZONING A PARCEL OF LAND IN THE CITY OF MOUNTAIN BROOK FROM LOCAL BUSINESS TO PLANNED UNIT DEVELOPMENT (PUD)

Council President Smith announced that the City Council does not intend to call for a vote on the proposed ordinance at this meeting, there are still unanswered questions posed by elected officials concerning the proposed development. She then invited comments from the applicant.

Al Worthington of 251 South Oak Drive 35242 with Dominion Partners:

- It has been six months since the last public hearing before the City Council
- Since the last meeting, the development team has been working to address questions and concerns raised about the proposed development
- Building materials have been changed, more trees along Cahaba Road have been preserved, the building footprint is reduced and positioned further away from Cahaba Road
- Introduced the next speakers

Nathan Rosemann with Rosemann & Associates (Atlanta, GA) and Louis Nequette with Nequette Architecture and Design (Birmingham, AL):

- The existing roadway leading into the property shall largely remain in tact
- The building is five stories stepping down to four stories as it nears Cahaba Road
- There is a 77 foot setback from Cahaba Road and a 107 foot setback along the rear of the property
- There will be two main entries, one for the independent and another for the assisted living areas

- Pointed out changes in the scale and positioning of the building in relation to the proposed presented at the last hearing. The height has been reduced to four stories.
- The unit count is unchanged at 166 units. The building scale has been reduced by reducing the size of the residential units and common areas.
- There are 116 parking spaces in the garage with two entrances/exits on either end of the building and 170 parking spaces overall
- The building was originally planned to be five stories over one level of parking. It is now four stories over one level of parking.
- The length of the building has been reduced by over 50 feet
- More of the taller existing trees will be saved to provide screening from the Cahaba Road viewpoint and shorter understory plantings will be installed to provide additional screening.
- Presented various illustrations of the building from surrounding vantage points around the property
- The building footprint is 85 feet from the Cahaba Road pavement (formerly 67 feet)
- The construction limits have been reduced to 20 feet from the building footprint to better protect the existing trees
- The landscape plans were reviewed

Billy Hand of 141 Stonegate Drive 35242 (Dominion Partners)

- The site is 4.92 acres of which 1.62 acres is currently impervious
- Post-development, the impervious area will be 2.27 acres (about a 13% increase)
- The impervious area will be less than 46% of the total site
- The City's storm water design regulations require that post-development run-off must be no more than pre-development runoff
- There are three areas where the run-off impacts the City's infrastructure. The design includes an underground detention system beneath the garage.
- The developer is required to design a system to accommodate a 2, 5, 10, 25, 50 and 100-year storm event. For events 5 through 100-years, they are decreasing runoff compared to current conditions by more than 10%.
- 75% of the runoff is from the designed closed system
- The design is matching runoff conditions at Culver and Cahaba
- Runoff from the increased impervious area is being stored in 2,600 cubic feet of underground detention
- The stored water will be treated by an isolation row that allows sediment to drop from the water prior to discharge
- At final design, the storm water flow rate and volume will have to be tested and certified to be less than or equal to pre-development conditions
- The detention system is constructed from 36 inch diameter pipes that are five feet deep and discharges through eight inch pipes thus slowing the discharge
- Construction worker parking will be located in Office Park
- Construction traffic will also take place at the rear emergency access where it will be temporarily improved
- First responder/emergency access will be located at the rear of the building
- Proper fire vehicle turning is provided in the front and rear along with a dedicated fire lane

- Comparing other similar facilities in the Birmingham area, anticipate about 18 emergency calls monthly (216+/- annually)
- Estimate that 80 of the residents will be Mountain Brook residents, do not view these as new emergency calls but rather relocated calls
- If an emergency (911) call is placed, their wellness checks could cancel said emergency call if the situation is determined to be non-emergent [30:49]

Scott Skipper of 3644 Vann Road 35235 with Skipper Consulting:

- The last study was compared to the national averages for similar facilities
- The roads were determined to more than adequately accommodate the proposed development
- Current levels of services are “A” and “B” and will remain such post-development
- Since the last meeting, the consultants performed traffic counts at Danberry and Somerby to provide a local benchmark as opposed to the national averages. These counts were comparable to the national averages.
- Questions were raised about the mid-day peak traffic counts. Therefore, mid-day counts were performed and it was determined that the morning and evening counts were 17-20% higher than the mid-day counts. So, the morning and evening counts do provide the “worse-case” scenarios.

Mayor Welch inquired whether all of the aforementioned amenities were being retained in light of the project downsizing to which Mr. Worthington replied yes.

Mayor Welch inquired whether the understory vegetation would remain low-growth or not.

Jarod Calhoun with Nequette Architecture and Design of 2227 Second Avenue North:

- The whole purpose of the lower canopy vegetation is to remain at the pedestrian level to maximize the screening effect

In response to a question by Council member Shelton, Mr. Worthington replied that residents will be offered one parking space per unit.

In response to another question by Council member Shelton concerning the “A” and “B” intersection grades mentioned earlier, Scott Skipper replied that such grades typically refer to wait times. For example, an “A” grade represents about 10-15 seconds or less at the mainline Cahaba Road) through an intersection (Culver). 25 seconds is generally the cutoff for a grade of “B”, 35 seconds for “C”, and 55 seconds for “D”. [Times are approximate].

In response to an inquiry from Council member Pritchard, Skipper replied that the traffic counts are those of the accesses through the intersection including the lower portion of the LAH building.

In response to an inquiry from Council member Graham Smith regarding price points, Mr. Worthington replied that the rate for a second resident in a unit is typically \$2,000 to \$5,000 per month (to cover the cost of meals and other ancillary amenities). This will be the most costly for residents but only because it will cost the most to construct even considering the scaled-down size. An average rate for couples is estimated to be \$10,000 per month (rents per square foot statistics are not used in the pricing model). The rents are expected to remain intact in spite of the reduced room area.

Council President Smith then opened the floor to public comments and questions [43:31].

Amanda Loper of 3789 Montrose Drive:

- Is an architect and has done similar work for Mr. Nequette
- Supports the development as she feels it satisfies a need for more senior housing in the City
- By providing for a community for the elderly residents of the City, single-family homes may be made available for younger families thereby allowing others to enjoy the benefits of the School System

Ann Sanders of 4616 Pine Mountain Road (owner of [continuous] Mountain Brook Plaza) [45:13]:

- Voiced her support for the project
- Feels this development will be beneficially for her commercial property
- Feels the City will benefit from having a senior living facility

Charlie Perry of 2501 Canterbury Road [46:26]:

- If approved, this development will change regulations that have been in place a long time
- Read recently that the average home price in the City was \$1.9 million totaling \$12 billion worth of real estate
- People live here for the neighborhoods
- Presented a photo of [2 p.m.] bumper-to-bumper traffic along Montevallo Road on a typical day. Believes this development will only worsen the traffic in the area.
- Based on personal experience, some residents may have private sitters coming to the facility. Questions the validity of the traffic counts considering residents, sitters, employees, visitors and deliveries.
- Suggested a different ingress/egress to U.S. Highway 280 to minimize the impact of traffic along Cahaba Road
- The City Council should be basing its decision on “the best interests” of the community at large.
- Showed a short video clip of the Watkins Creek flooding and questioned whether flooding would be adversely affected
- Showed a photo of him wading through his flooded backyard. He has lived in his home for 38 years and it has never flooded but flooding has gotten worse since the Evans redevelopment.

Victor Hansen of 2328 Chester Road:

- Asked where ambulances will access the building

Fire Chief Chris Mullins:

- His research shows that nationwide emergency medical service calls are increasing up to 30% due to senior living communities
- Locally, there appears to be 1.3 to 1.5 calls per resident per year for similar facilities
- Using those statistics, we can expect 218 to 250 calls annually
- Wants to know what Dominion’s policy is for resident “lift assists” and whether or not they are relying on local fire departments to assist with non-emergent lift assist calls
- Getting back to the question at hand, emergency access will be at the rear of the building with covered parking. The developer has been most accommodating to the department’s suggestions with respect to emergency medical access.

- Clarified that the fire department will be coming to the scene with lights and sirens for all 911 calls. This protocol is independent of any senior living facility policies or desires.

Council member Garner inquired about security measures for residents that get off grounds.

Al Worthington:

- Residents may be tracked by their fobs with a GPS tracker
- Does not recall such an occurrence with other facilities
- Dominion does not have a “no lift policy”
- They did sell 18 facilities since 2018
- Staff does analyze each situation. If they cannot determine whether lifting is safe, they will call 911.
- Dominion has used two different operating companies and neither have such a policy
- Does not recall in eighteen ever hearing a siren at any other retirement facilities
- Most senior housing communities do not offer 24-hour nursing care
- Dominion does have 24-hour nursing staff on site at the assisted living wing
- Believes the number of emergency calls is correlated to the type and quality of the operator.
Views Dominion’s facilities as best in class.
- In response to Council member Shelton’s question, affirmed that once sold, the buyer generally maintains the amenities and often retains the prior operator

Council President Pro Tempore Pritchard

- Asked whether the rental agreements will carry forward for future sales to which Mr. Worthington stated he could not say but feels confident that the buyer will maintain the level of service

Al Worthington:

- Alabama is one of the most difficult states in terms of senior housing operations
- The State’s nursing home lobby defines the rules operators must follow
- For example, a resident in Georgia may be 10 times worse than an Alabama resident but in Georgia they may remain in the senior living facility whereas in Alabama the resident would be required to move to a skilled nursing facility
- If a resident falls twice in a 30-day period, they must be monitored
- The [Alabama lobby’s] goal is to get the senior community residents into the nursing home
- This facility has no nursing component

Ben Watson with Live Oak Engineering 2509 7th Avenue South regarding the flooding concerns raised earlier:

- Rainwater will be stored underground and discharged at a slower rate than without the underground detention
- Watkins Branch will have less runoff from this property at any instantaneous moment
- This will be a passive system consisting of about 800 feet of 36 inch pipe
- For every 10 CFS of water coming into the system, 6 CFS are being stored every second and discharged at the rate of 4 CFS every second
- In response to an inquiry by Council member Graham Smith, Watkins replied that there is about one square mile of drainage flowing into Watkins Branch below the development. At its peak,

there is about 988 cubic feet of water flowing through the creek every second. In a 100-year event completely un-detained, the site drains about 22 cubic feet per second. They proposed system will lower the runoff to 18 cubic feet per second. There is no appreciable benefit to designing a system beyond a 100-year event. The proposed design exceeds the requirements of the City Code.

- Watson has worked with Schoel Engineering, has done 40-50 residential detention systems in Mountain Brook and will stamp his design asserting no adverse impact from the development which will be reviewed and stamped by Schoel to certify to its accuracy

Charlie Perry:

- We had the same discussion with the Evans development which included a detention pond on the Shades Valley property
- Flooding is worse today than pre-development
- Questions whether the City's regulations are strict enough or whether mistakes occurred

Pam Baugh of 2605 Canterbury Road:

- So much development has occurred over the past year causing tremendous pressures
- Urged the Council to look at the overall picture
- It is difficult to live in the Village where we anticipate the roundabouts are experiencing inconvenience from the sewer upgrades combined with all of the other recent developments
- We need to stop and get over what has already transpired and scheduled

Fred Rennecker of 5211 Lane Park Court

- Hopes to enjoy this project

Helen Catherine Smith of 2926 Canterbury Road

- Thinks this is a project that the City needs
- How do you know you are not damaging tree roots that will eventually kill them?
- Where will employees access the property and park?

Nathan Rosemann:

- Each tree has a diameter of breast height (DBH). The DBH determines how large of a diameter must be undisturbed around each tree to ensure not damage to the roots
- A 10 inch tree will have a 12 foot critical root zone. Within that area there shall be not materials stored and no surface disturbance
- Trees will be assessed for health, pruned, if necessary, prior to construction and irrigated.
- The maximum number of employees on site at any time is 45
- There are 116 spaces underground of which 102 are reserved for residents with some excess [resident] capacity anticipated, visitor parking is available at the front entrance. Employees are generally expected to park in the rear of the building.
- The parking lights will be screened

Lynn Russell of 50 Fairway Drive:

- With 102 independent living residents, 30 memory care and 32 assisted living understands there could be up to 102 senior motorists. Questions the safety of such seniors entering Cahaba Road considering the traffic.
- Would prefer to see the residents access from U. S. Highway 280

Ann Thomas of 3700 Country Club Drive:

- Asked about employee shifts and traffic impact

Withers Poellnitz with Dominion Partners of 15 West Montcrest Drive:

- The facility is staffed 24-7
- Shift workers generally arrive between 6-7 a.m., 2 p.m. and 10 p.m. 12-15 office staff generally work 8 a.m. to 5 p.m.
- The peak of 45 employees occurs at mid-day
- Employees generally eat on site with deeply discounted meal eaten in the employee break room

Victor Hanson:

- Based on personal experience, parking has been an issue. Asked the City to inquire about private sitters which increase the demand for parking.
- Believes the Ladd's are not allowing traffic to flow through its development because they may be considering a future development that dwarfs this proposal.

[The Ladd's have not approached the City for any development proposal in over 20 years.]

Ladd Tucker of 6 Office Park, Suite 111:

- Lives and works in close proximity to the proposed development
- Believes this proposal is the least invasive
- Believes senior living is much needed
- The building is currently 65% occupied and has not been increased in anticipation of this development
- If the occupancy of the existing building were increased, traffic would be worse than the proposed development
- The current building occupant has about 50 employees and probably 100 patients per day. Believes the proposed development represents a much less intensive use than today
- We have considered razing Office Park and redeveloping but the site work is prohibitively expensive.
- 12 Office Park Circle was recently redeveloped made possible by using historical tax credits. It is expected that other buildings will be redeveloped in a similar manner.
- There is no plan to redevelop the property other than 8 Office Park Circle where the City leased about 10-12 years ago.
- Long ago a grocery store was considered for the subject site which would be way more intensive than the current proposal'
- The family is vested in the community and wants this property to be developed in the right way.

Council member Pritchard pointed out that the Ladd's would not need the approval of the City Council to build a grocery store on the site.

There being no further questions, comments or discussion, Council President Smith closed the public hearing and announced that consideration of the proposed ordinance shall be continued to a later date the time and place to be announced in accordance with Alabama law. She then adjourned the meeting of the City Council.

2. CERTIFICATION

I, Steven Boone, Acting City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the special meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall (Room A-108) on May 21, 2024, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.

Acting City Clerk
Approved by City Council June 10, 2024
